



Application for Exemption from WV Workers' Compensation Coverage

1124 Smith Street
Charleston, WV 25301

Mail Completed Application To:
WV INSURANCE COMMISSION
Employer Coverage Division
PO Box 11682
Charleston, WV 25339-1682

Telephone: 304-558-5091

For Insurance Commission Use Only

Exemption ID #: _____

Effective Date: _____

Reviewed By: _____ Date: _____

ALL QUESTIONS ON THIS APPLICATION MUST BE ANSWERED IN FULL. THE APPLICATION MUST BE NOTARIZED AND A \$25.00 APPLICATION FEE IS REQUIRED OR THE APPLICATION CANNOT BE PROCESSED. IF YOU HAVE ANY QUESTIONS PLEASE CALL 304-558-5091.

With limited exceptions, as set forth more specifically in W. Va. Code § 23-2-1, workers' compensation coverage is **mandatory** for all employers who employ one or more employees in WV. Owners, partners, officers and members are assumed to be employees and are subject to mandatory coverage requirements unless Section III of this application is completed in its entirety. Additionally, there is case law from the West Virginia Supreme Court to support the presumption that when one person is retained to render a service for another person or entity, as a general rule, it is considered to be an "employer-employee" relationship. The Insurance Commissioner will consider all applicable case law from the West Virginia Supreme Court when reviewing an assertion by an employer that person(s) performing work or services for the employer are independent contractors rather than employees. Therefore, it is strongly advised that before submitting an application for exemption which is partially based on an assertion that certain individuals performing work for the employer are independent contractors, employers become familiar with the applicable law regarding independent contractors, and provide proper documentation in regard to the same.

SECTION I: BUSINESS INFORMATION

- State the Reason(s) for Filing an Exemption Application.** *This must be a reason or reasons supported by one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or stating otherwise that the employer is exempt from West Virginia workers compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). Within this section, please account for all of the persons or entities which ever perform work or services in the State of West Virginia on the employer's behalf, but whom the applying employer does not consider to be an "employee" for the purposes of workers' compensation (i.e., the person(s)/entity(s)) is a subcontractor, independent contractor, etc.).*
Sufficient documentation in support of the claimed exemption should be provided with this application. If coverage is provided in another state on behalf of the applicant, the applicant must attach proof of coverage from that state.

Attach an explanation of why you are requesting an exemption.
Please provide your number of employees, or last date of employees.

- Legal Name of Business:** _____
Trading As/Doing Business As: _____
- Primary Corporate Address:**
Not a Post Office Box

Street			
City	County	State	Zip
Name of Contact Person		Telephone #	Fax #
Contact Person's Email Address			
- Mailing Address:**

Street			
City	County	State	Zip
- Primary WV Address:**
Not a Post Office Box

Street			
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City

County

State

Zip

SECTION I: BUSINESS INFORMATION, Continued6. Federal ID #:

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7. WV Unemployment Compensation Account #: _____

8. WV State Tax ID #: _____

Attach Copy of WV Business Registration Certificate

9. Type of Organization:

Check all that apply

- | | |
|--|---|
| <input type="radio"/> Sole Proprietorship
<input type="radio"/> Partnership
<input type="radio"/> Limited Liability Corporation
<input type="radio"/> Domestic Corporation
<input type="radio"/> Foreign Corporation
<input type="radio"/> State Agency
<input type="radio"/> Municipality
<input type="radio"/> Receivership | <input type="radio"/> 'S' Corporation
<input type="radio"/> Limited Partnership
<input type="radio"/> Joint Venture, Corporation
<input type="radio"/> Joint Venture, Partnership
<input type="radio"/> Association
<input type="radio"/> County Agency
<input type="radio"/> Trustee
<input type="radio"/> For Profit
<input type="radio"/> Not for Profit |
|--|---|

10. State Where Incorporated: _____

Date Incorporated: _____

11. First Date Owner, Partners, Officers, Members Began Working in WV: _____

12. Date Employees with Workers' Compensation Coverage in Another State Began Working in WV: _____

 13. List ALL Licenses, Permits & Certificates Issued by any State Agency for the Purpose of Doing Business in WV:
[Provide copy of any certification or license that is required by the state.](#)

Issuing Agency	Issued To	Type of License, Permit, Certificate	License, Permit, Certificate #

14. Did Applicant Purchase or Lease an Existing Business: ☐ Yes ☐ No*If Yes, Answer the Following Questions and Attach a Copy of Purchase/Lease Agreement/Contract*

Effective Date of Purchase/Lease: _____

Name of Business Purchased/Leased: _____

Address of Purchased/Leased Business: _____

*Street**City**County**State**Zip*

Name of Individual/Contact Person from Whom Business was Purchased/Leased: _____

Address of Individual/Contact Person from Whom Business was Purchased/Leased: _____

*Street**City**County**State**Zip*

SECTION II: BUSINESS INDUSTRY CLASSIFICATION

15. Describe in Detail the Complete Business Operation and Work Process, including any details which would support any of the specific exemptions as stated in W. Va. Code § 23-2-1(b)(1) through (8), or an assertion that the employer does not fall under the purview of W. Va. Code § 23-2-1(a). Please provide sufficient documentation with this application to support the representations in this section. (Example, "Applicant operates a retail furniture store. All furniture is purchased wholesale and delivered to retail site by contract hauler. Delivery to retail customer is provided on all sales. No repair work is performed"). If out of state employer, include how long you anticipate working in West Virginia.

16. List all Tools and Equipment Used to Perform Work: Example, "Fork lift truck, delivery trucks, furniture dollies".

SECTION III: SUBCONTRACTOR INFORMATION

WARNING: Case law from the West Virginia Supreme Court exists to support the presumption that when one person is retained to render a service for another, it is ordinarily considered that the relationship is that of employer - employee. To overcome this presumption it is incumbent upon the one who hired the worker to show that the worker is an independent contractor. Any change or addition in regard to subcontractor/independent contractor status must be supplied to WV Insurance Commission immediately.

17. Do you employ or anticipate employing any subcontractors or independent contractors?

☐ Yes

☐ No

If yes, complete the following for each subcontractor/independent contractor. Attach additional pages if necessary.

Name of Subcontractor/Indep. Contractor # 1:			
Subcontractor's Workers' Compensation Policy #:			
Subcontractor's State/Federal Tax ID #:			
Subcontractor's Address:			
	Street		
	City	County	State
	Zip		
Description of Work Performed by Subcontractor:			
Estimated Length of Contract:			
Name of Subcontractor/Indep. Contractor # 2:			
Subcontractor's Workers' Compensation Policy #:			
Subcontractor's State/Federal Tax ID #:			
Subcontractor's Address:			
	Street		
	City	County	State
	Zip		
Description of Work Performed by Subcontractor:			

SECTION IV: OWNER, PARTNER, OFFICER, MEMBER IDENTIFICATION AND ELECTIONS OF COVERAGE

Pursuant to W. Va. Code § 23-2-1(f)(2), workers' compensation coverage is **MANDATORY** for sole proprietors, partners, members and officers **UNLESS** the individuals elect in writing not to be covered. For corporations and associations, only the following principals can be elected out of coverage without regard to dual capacity: a president, a vice-president, a secretary and a treasurer. "Dual capacity" is defined as any one person who performs duties and has responsibilities typically associated with an officer, but also performs duties associated with a worker, manager or other employee who is not an officer.

18. List ALL owners, partners, officers, directors, and members. List all individuals who own 10% or more of the business entity. List any persons who have a working relationship with the applicant to provide authority, direction or control over the business operations. 'S' Corporations must list ALL individuals associated with the 'S' Corporation.

Provide the name, title or position, social security number and percent of ownership for all individuals listed. Indicate whether the individuals elect not to be covered by WV workers' compensation insurance and whether they work in a dual capacity. Dual capacity is defined as any one person who performs duties and has responsibilities typically associated with an officer, but also performs duties associated with a worker, manager or other employee who is not an officer.

Please note that the information provided in this section does not, by itself, entitle the employer to a letter of exemption. The information in this section only serves the purpose of showing that certain individuals serving as sole proprietors, partners and officers for the applying company are exempt from coverage. An employer is not entitled to a letter of exemption from West Virginia workers' compensation coverage unless it meets one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or otherwise proves that the employer is exempt from West Virginia workers compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). For example, if an employer has several employees that meet the exemption under this section, but several that do not, it would not be entitled to an exemption letter – the employer would still need to show its entitlement to an overall exemption under the provisions of 23-2-1(a) or (b).

Name	Title / Position	Effective Date Title / Position Held	SSN	% Owned	Elect Coverage? (Yes / No)	Dual Capacity? (Yes / No)

SECTION IV: OWNER, PARTNER, OFFICER, MEMBER IDENTIFICATION & ELECTIONS OF COVERAGE, Continued

19. All individuals identified above as an owner, officer, partner, or member must affirm their elections not to be covered by WV workers' compensation coverage by affixing their signature to the following acknowledgement.

I, the undersigned, do hereby affirm that as an owner, officer, partner or member of the applicant's business, I fully acknowledge that I am making an election NOT TO BE COVERED by WV workers' compensation insurance and I understand that if I incur a work-related injury or illness I will not be covered by workers' compensation insurance in WV.

Print Owner, Officer, Partner,
Members Name Here

Title / Position

By Affixing My Signature Below, I Understand I am NOT Covered by
WV Workers' Compensation Insurance

SECTION V: SIGNATURE AUTHORITY

20. This application must be signed and sworn to by the appropriate persons listed below.

Signatures of accountants or agents are not acceptable.

- a) If the applicant is a corporation or a limited corporation this application may be signed by the president or the vice-president *and* secretary of the corporation.
- b) If the applicant is a partnership or limited liability company this application must be signed by *all* general partners or members. If the applicant is a limited partnership the application must be signed by *all* general partners.
- c) If the applicant is a sole proprietorship this application must be signed by the sole owner.

I hereby swear or affirm that to the best of my knowledge and belief these statements and representations are true and accurate. I accept the provisions of the WV Workers' Compensation Act and the Rules promulgated thereunder, as amended. I am aware that I **MUST** timely notify the WV Insurance Commission in writing, of any changes in our business operations, including but not limited to employment of even one person; entering into contracts with subcontractors; change in business type; location; ownership; covered/non-covered status of individual owners, partners, officers, and members; and the status of the business as described in this application. I further realize that all businesses are subject to inspection and audit. **I further understand that in accordance with W.Va. Code §61-3-24e(5), it is a felony to knowingly and willingly make false statements respecting any information required to be provided under the WV Workers' Compensation Code Chapter 23. Upon conviction the individual shall be confined in a penitentiary for up to three years, fined up to \$10,000, or both.**

Signature # 1: _____ Title: _____

Print Name of Signatory: _____

State of _____,

County of _____, To Wit:

Subscribed and sworn to before me this

_____ day of _____ 20____

Notary Public

My Commission Expires: _____

SECTION V: SIGNATURE AUTHORITY, Continued

Signature # 2: _____ Title: _____

Print Name of Signatory: _____

State of _____,

County of _____, To Wit:

Subscribed and sworn to before me this

_____ day of _____ 20____

Notary Public

My Commission Expires: _____

SECTION V: SIGNATURE AUTHORITY, Continued

Signature # 3: _____ Title: _____

Print Name of Signatory: _____

State of _____,

County of _____, To Wit:

Subscribed and sworn to before me this

_____ day of _____ 20____

Notary Public

My Commission Expires: _____

Signature # 4: _____ Title: _____

Print Name of Signatory: _____

State of _____,

County of _____, To Wit:

Subscribed and sworn to before me this

_____ day of _____ 20____

Notary Public

My Commission Expires: _____

REMEMBER TO INCLUDE ALL REQUESTED DOCUMENTATION.